

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DERRICK McKINZIE,)
)
 Plaintiff,)
)
 v.) No. 4:09CV627 FRB
)
 GEORGE BROWN,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to have his deposition conducted in Columbia, Missouri. Plaintiff, who is proceeding in forma pauperis, states that he does not have transportation and cannot afford to travel to St. Louis for his deposition. Defendant opposes the motion because plaintiff has twice cancelled depositions on only two-days notice and because defendant believes plaintiff has not acted in good faith regarding the Court's discovery orders.

“Ordinarily, a defendant is entitled to examine a plaintiff in the forum where plaintiff has chosen to sue. Where special circumstances are shown that outweigh any prejudice to the defendant, a court will exercise its discretion to designate a different place for the deposition.” Instituto Per Lo Sviluppo Economico Dell’ Italia Meridionale v. Sperti Products, Inc., 47 F.R.D. 530, 533 (S.D.N.Y. 1969).

Special circumstances exist in this case. Plaintiff is both disabled and is a pauper. Under these circumstances, the Court will order that the deposition of plaintiff, if it be taken in person, be held near plaintiff's residence, either in Columbia, Missouri, or Jefferson City, Missouri. Defendant may also choose to take plaintiff's deposition by remote means as stated in Rule 30(b)(4) of the Federal Rules of Civil Procedure. The deposition shall take place no later than March 19, 2010.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to have his deposition conducted in Columbia, Missouri, [#39] is **GRANTED** in part.

IT IS FURTHER ORDERED that the deposition of plaintiff shall take place in accordance with the terms of this Memorandum and Order.

IT IS FURTHER ORDERED that if plaintiff does not timely sit for his deposition, the Court may impose sanctions.

Dated this 2nd day of March, 2010.



FREDERICK R. BUCKLES
UNITED STATES MAGISTRATE JUDGE